IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

OP.No. 15410 of 1999(H)

PETITIONER:

JOSE P.L., AGED 57,
S/O. LONAPPAN, PUNNELIPARMBIL,
KOMBODINJAMAKAL,
THAZHEKAD P.O. (DIED)

***LEGAL HEIRS OF DECEASED P.L. JOSE IMPLEADED AS ADDL. PETTIONERS 2 TO 5.**

2. M.P.CICILY, AGED 57, W/O. LATE P.L.JOSE,
PUNNELIPARAMBIL, THAZHAEKKAD,
KOMBODINJAMAKAL.

3. SEEJO.P.JOSE, AGED 32,
S/O. LAT4 P.L.JOSE, PUNNELIPARAMBIL,
THAZHAEKKAD, KOMBODINJAMAKAL

4. SIJI P.JOSE, AGED 28, D/O. LATE P.L.JOSE,
PUNNELIPARAMBIL, THAZHAEKKAD,
KOMBODINJAMAKAL.

5. SIJU P.JOSE, AGED 26, S/O. LATE P.L.JOSE,
PUNNEDIPARAMBIL THAZHAEKKAD,
KOMBODINJAMAKAL.

ARE IMPLEADED AS ADDL.PETITIONERS 2 TO 5 AS PER ORDER DT.2.6.05 IN IA. 743/05.

BY ADV. SRI.GEORGE VARGHESE (MANACHIRACKEL)

RESPONDENTS:
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1. THE ASSISTANT EDUCATIONAL OFFICER,
IRINGALAKKUDA.

2. THE DEPUTY DIRECTOR (EDUATION),
TRISSUR.

BY GOVERNMENT PLEADER SMT.SMITHA SUKUMARAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.15410/1999

ORDER ON CMP. NO.25017/1999 IN OP. NO.15410/1999

DISMISSED

18.10.2007 **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE GRATUITY PAYMENT ORDER DT. 19.5.98.

EXT.P2:- COPY OF THE VACANCY LIST FOR AUGUST 1996 ISSUED BY PETITIONER TO R1.

EXT.P3:- COPY OF THE REPORT OF THE HEADMASTER GOVERNMENT U.P.SCHOOL, KADUPPASSERRY DT. 20.7.98 TO R2.

EXT.P4:- COPY OF THE LETTER DT. 24.10.98 ISSUED BY R2 TO 1 WITH COPY.

EXT.P5:- COPY OF THE JUDGMENT IN OP. NO.23295/98 DT. 21.12.98.

EXT.P6:- COPY OF THE LETTER OF R1 DT. 12.3.99.

EXT.P7:- COPY OF THE REPLY OF PETITIONER DT. 20.3.99.

EXT.P8:- COPY OF THE ORDER OF R1 DT. 26.3.99.

EXT.P8(a):- COPY OF THE LIABILITY CERTIFICATE DT. 9.3.99 ISSUED BY R1.

/TRUE COPY/

P.A. TO JUDGE

tss

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.15410 OF 1999

Dated this the 18th day of October, 2007

JUDGMENT

Petitioner was the Headmaster of a Government school. Bills were presented by him, in such capacity, for salaries due to those working in that school, which included 10 teachers. However, according to the Government, the staff pattern required for that school and as fixed by the competent authority was only for 9 teachers.

2. It is not in dispute that there was a 10th teacher available in the school. The bills presented by the Headmaster were not fraudulent. There is no case of maliciously defrauding the Government. Under such circumstances, I do not deem it appropriate that recovery proceedings could be initiated against the petitioner for the salary received and enjoyed by the 10th teacher.

In the result, the impugned decisions and demands are quashed and it is directed that all retiral benefits, including D.C.R.G., which are withheld, shall be released to the petitioner within an outer limit of two months from the date of receipt of a copy of this judgment. The writ petition is allowed as above. No costs.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.15410 OF 1999

JUDGMENT

18th OCTOBER, 2007.

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